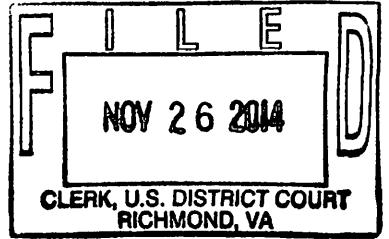


IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division



QUINCY ERNEST AVENT,

Petitioner

v.

Civil No. 3:14CV494

COMMONWEALTH OF VIRGINIA,

Respondent.

MEMORANDUM OPINION

Quincy Ernest Avent, a Virginia inmate proceeding pro se, submitted a 28 U.S.C. § 2254 petition. Avent states that he has a pending appeal with the Court of Appeals of Virginia. (§ 2254 Pet. 3.) Avent has not filed an appeal or any other challenge to his state conviction to the Supreme Court of Virginia. (Id. at 3-4.) Thus, the record fails to indicate that Avent has properly exhausted his state court remedies with respect to his claims. Accordingly, by Memorandum Order entered on September 24, 2014, the Court directed Avent to show cause within eleven (11) days of the date of entry thereof, why his § 2254 Petition should not be dismissed for lack of exhaustion of his state court remedies. (ECF No. 5.) Avent has not responded.

Accordingly, Avent's § 2254 Petition and the action will be dismissed without prejudice because he has failed to demonstrate that he has exhausted his available state remedies or that

exceptional circumstances warrant consideration of his petition at this juncture.

An appeal may not be taken from the final order in a § 2254 proceeding unless a judge issues a certificate of appealability ("COA"). 28 U.S.C. § 2253(c)(1)(A). A COA will not issue unless a prisoner makes "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). This requirement is satisfied only when "reasonable jurists could debate whether (or, for that matter, agree that) the petition should have been resolved in a different manner or that the issues presented were 'adequate to deserve encouragement to proceed further.'" Slack v. McDaniel, 529 U.S. 473, 484 (2000) (quoting Barefoot v. Estelle, 463 U.S. 880, 893 & n.4 (1983)). Avent fails to satisfy this standard. Accordingly, a certificate of appealability will be denied.

The Clerk is directed to send a copy of the Memorandum Opinion to Avent and counsel of record.

Richmond, Virginia
Date: *November 25, 2014*

/s/ *REP*
Robert E. Payne
Senior United States District Judge